

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 14, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF: 08od-0184

OAHU

Amend Governor's Executive Order No. 2642, Waimanalo, Koolau-poko, Oahu,
Tax Map Key: (1) 4-1-027.

BACKGROUND:

In 1972, Governor's Executive Order No. (EO) 2642 was issued to the Board of Water Supply (BWS) for pump site, well site, reservoir site, and waterline easement. A portion of the lands under EO 2642 is titled "Kaulukanu Street Extension" (Road), as depicted on CSF Map No. 15945, as shown on Exhibit A. However, the EO document does not specify the Road as a non-exclusive access easement.

The Road is situated between two current State leased properties under GL 4008 (Walter & Evelyn Chong, Lessee) and GL 5708 (Landscape Hawaii, Inc., Lessee). Recently, lessee of GL 5708, claiming for security reason, put up a chain and lock at the makai end of the Road and the Chongs were informed of the combination to the lock. However, the Chongs found the chain and lock becoming a physical burden due to their age and health.

Upon reviewing our records, staff cannot locate any authorization or reservation under both leases for either lessee possessing any exclusive right to use the Road.

REMARKS:

Assuming BWS has exclusive control of the Road, pursuant to EO 2642, the above two State properties are technically land-locked. As mentioned above, the EO document is silent if the Road is a non-exclusive easement for BWS. Staff notes that the Road serves as the only access from the two State properties to the county road, i.e. Kaulukanu Street.

GL 4008 was sold at an auction in 1966, and GL 3861 (the previous lease of GL 5708 parcel), was sold in 1964. Neither GL 3861 nor GL 4008 had provision in the lease reserving onto them a legal access over the Road, simply because it was a road in the 1960s. In fact, legal description of both properties referred the Road as a "30-foot Road".

Pursuant to a letter dated June 18, 1968 (Exhibit B), from the then Acting Chairperson to the State Comptroller, it cited that "a non-exclusive perpetual easement thirty (30) feet wide for access purposes over Kaulukanu Street extension" was to be included in the set aside. However, when the EO document was finalized in 1972, i.e. after GLs 3861 & 4008 were sold, the "perpetual non-exclusive easement" description was apparently missing during the drafting stage. Staff reviewed the records but cannot locate any explanation providing the reasoning. Based on the 1968 letter, staff believes EO 2642 should be revised to reflect that the Road is a non-exclusive access and utility easement for BWS.

Further, staff notes that by EO 2411 issued to the City and County of Honolulu (City) for "transferring land for County highway" purposes in November 1968, a portion of the subject Road has actually been set aside to the City. The overlapping portion is shown hatched on Exhibit C. Therefore, EO 2642 should be amended to reflect the actual area (less the portion under EO 2411) to correct the mistake when EO 2642 was issued. Upon approval of today's request, staff will work with the Department of Accounting and General Services, Survey Division on the required map and description of the revised area.

To address the lack of access for both properties, staff recommends the Board authorized a reservation, in the EO amending EO 2642, for a perpetual non-exclusive access and utility easement in favor of the two adjacent State properties, further identified by tax map key (1) 4-1-027:014 & 016.

BWS has no objections to the request. Staff did not solicit comments from other governmental agencies as today's request is for housekeeping only.

RECOMMENDATION: That the Board approve of and recommend to the Governor issuance of an executive order amending Governor's Executive Order No. 2642 and subject to the following:

- A. Revising the area of the set aside by removing the square footage set aside previously under Governor's Executive Order No. 2411;
- B. Reserving a perpetual non-exclusive easement for access and utility purposes which shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-1-027:014 & 016;
- C. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;

- D. Review and approval by the Department of the Attorney General; and
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



ST
January 3, 1923
RESERVE

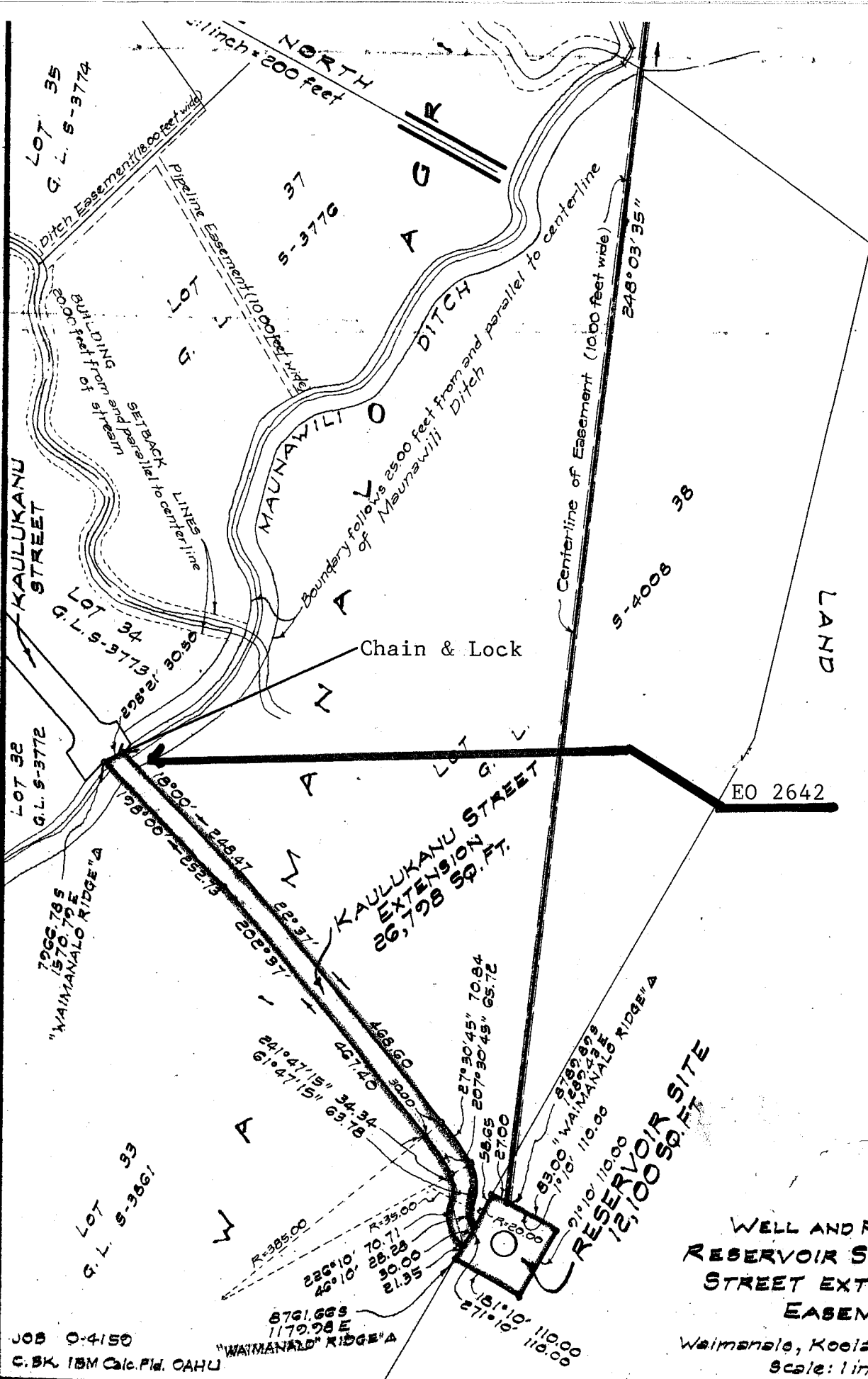


EXHIBIT "A"

WELL AND PUMP SITE,
RESERVOIR SITE, KAULUKANU
STREET EXTENSION AND
EASEMENT A

Waimanalo, Koolau-poko, Oahu, Hawaii
Scale: 1 inch = 200 feet

JOB 0-4150
C.BK. IBM Calc. Pld. OAHU

TAX MAP 4-1-27

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

STATE OF HAWAII

C. E. F. No. 15,245

PM OCT. 20, 1969

854214-123456

Survey Lot # 0-4159

June 18, 1968

The Honorable KeNam Kim
State Comptroller
Department of Accounting
and General Services
State of Hawaii
Honolulu, Hawaii

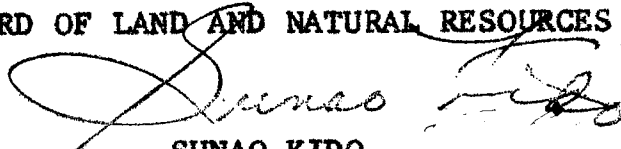
Dear Sir:

The State proposes to set aside to the Board of Water Supply the site of the Waimanalo Farm Lots 50,000-gallon reservoir at the end of Kaulukanu Street extension and the well and pump site on Waikupanaha Street, together with a non-exclusive perpetual easement thirty (30) feet wide for access purposes over Kaulukanu Street extension, and a 10-foot-wide pole line right of way for float switch control, all as shown on State Survey map of the Waimanalo Agricultural Subdivision. We also propose to set aside to the Board of Water Supply Easements 1 through 8 as shown on R.M. Towill Corporation surveys attached.

Please furnish us with descriptions and eight (8) prints of the described sites and easements.

Very truly yours,

BOARD OF LAND AND NATURAL RESOURCES



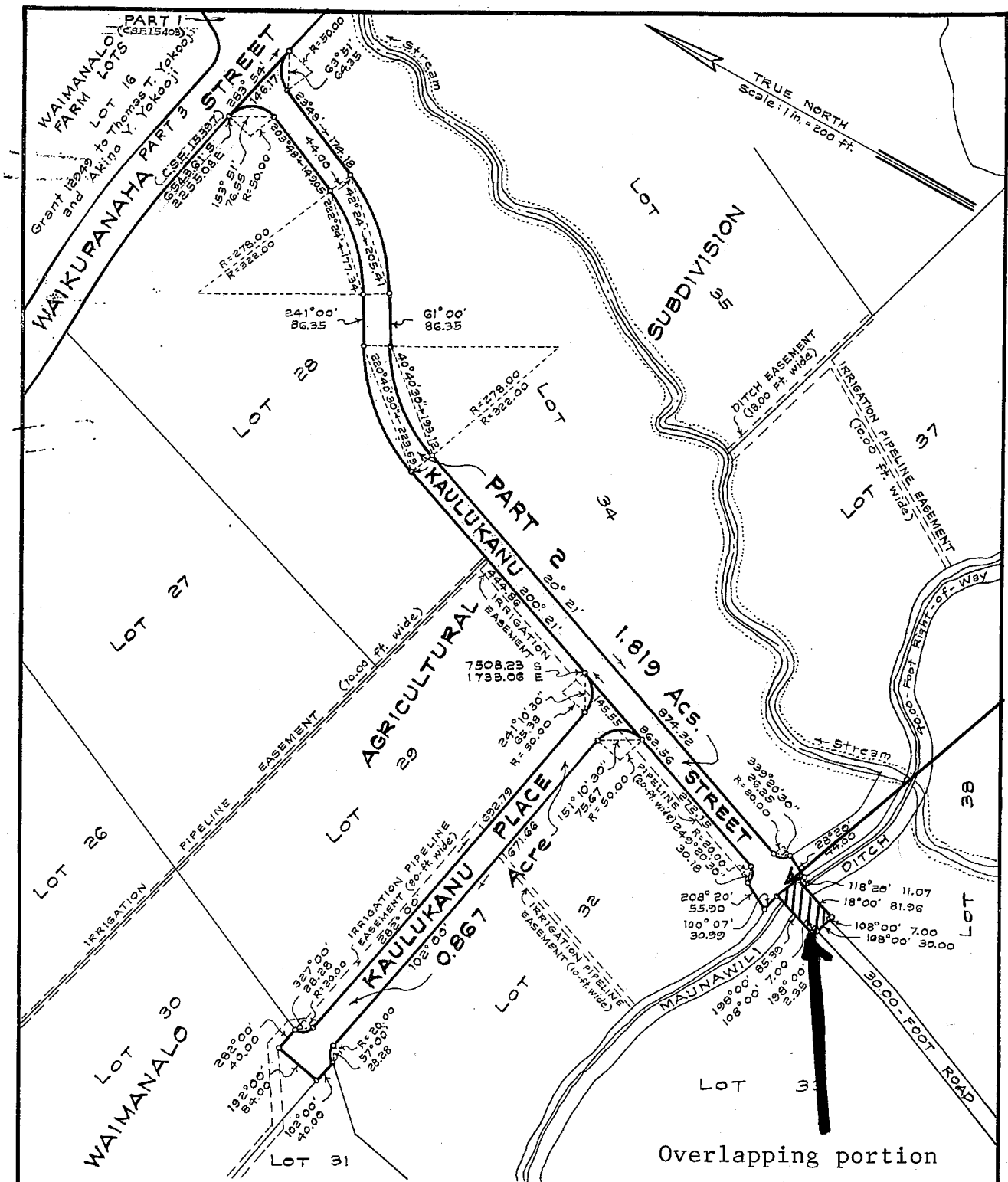
SUNAO KIDO
Acting Chairman and Member

End
GWL:lf

Attachment



EXHIBIT "B"



KAULUKANU STREET
PART 2

AND

KAULUKANU PLACE

Waimanalo, Koolau-poko, Oahu, Hawaii

Scale: 1 inch = 200 feet

EXHIBIT "C"

JOB 0-3822

C. BK 1BM-Oahu Folder

Coordinates referred to "WAIMANALO RIDGE" Δ

TAX MAP 4-1-08

SURVEY DIVISION
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

C.S.E.No. 15404

STATE OF HAWAII

1.9 Dec. 6, 1967